

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

KENNETH EUGENE BARRON)

Plaintiff,)

v.)

UNITED STATES OF AMERICA)
on behalf of the FMC DEVENS,)
Defendants.)

Civil Action No. 04CV40023RCL

**MOTION TO EXTEND TIME IN WHICH TO RESPOND TO COMPLAINT AND TO
PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT**

Now comes the defendant, United States of America, on behalf of the Federal Medical Center in Devens, Massachusetts ("FMC Devens"),¹ and hereby moves this Court for an extension of time **up to and including June 16, 2004**, to answer or otherwise respond to both Plaintiff's complaint and his motion for partial summary judgment. As reasons therefore, the undersigned defense counsel asserts the following:

1. Defendant was served with Plaintiff's complaint on or about March 16, 2004. Pursuant to the rules of federal procedure, Defendant has sixty (60) days from the time of

¹ This motion is not intended to be a responsive pleading. By the filing of this motion, Defendant is not waiving any of the procedural, affirmative, or other waivable and non-waivable defenses available to it in the normal course of filing a responsive pleading. Defendant intends to raise those defenses when it answers or otherwise responds to the Complaint.

service within which to respond to the complaint (or until on or about May 16, 2004).

2. On or about April 14, 2004 -before Defendant was able to answer or otherwise respond to the Complaint -Plaintiff served Defendant with a copy of a motion for partial summary judgment, entitled "Motion By The {sic} Pro-Se Plaintiff For Partial Summary {sic} Judgement On The Complaint Under F.R.C.P. 56 Based On The Defendant's Breach Of The Prison Medical Policies."
3. At present, the Bureau of Prisons medical professional who will be providing necessary background information, medical history, medical practices and procedures, and most importantly, an affidavit concerning these items, is away on leave until some time in May 2004.
4. If granted, this extension will afford Defendant the necessary time within which to obtain the afore-mentioned items from the BOP medical professional when she returns, but will also allow the agency to complete its review of this matter, and to provide relevant facts, background information, and documents concerning this matter.
5. Defendant asserts that there have been no prior requests for extension in this action.

WHEREFORE, Defendant respectfully requests that this Court allows its motion for an extension of time **up to and including**

June 16, 2004, to answer or otherwise respond to both Plaintiff's complaint and his motion for partial summary judgment.

Respectfully submitted,

DEFENDANT UNITED STATES OF AMERICA,
on behalf of FMC DEVENS,

By its attorney,

MICHAEL J. SULLIVAN
United States Attorney

Gina Walcott-Torres
By: Gina Y. Walcott-Torres
Assistant U.S. Attorney
John Joseph Moakley U.S.
Courthouse
1 Courthouse Way, Suite 9200
Boston, MA 02210
(617) 748-3369

Dated: April 28, 2004

CERTIFICATE OF SERVICE

This is to certify that I have this 28th day of April 2004, served upon the person listed below a copy of the foregoing document by depositing in the United States mail a copy of same in an envelope bearing sufficient postage for delivery:

Kenneth Eugene Barron (Prison #30255-037), *pro se*, FMC
Devens, P.O. Box 879, Ayer, MA 01432

Gina Walcott-Torres
Gina Y. Walcott-Torres
Assistant United States Attorney

REQUEST FOR WAIVER OF LOCAL RULE 7.1(A)(2) CERTIFICATION

The undersigned counsel hereby requests a waiver of the requirements of Local Rule 7.1(A)(2). As reasons therefore, she asserts that the plaintiff, who is acting *pro se*, is incarcerated at the Federal Medical Center in Devens, Massachusetts.

Gina Walcott-Torres
Gina Y. Walcott-Torres
Assistant United States Attorney